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VIA MESSENGER

Federal Communications Commission
Office of Secretary

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.; Room 222
Washington, D.C. 20554

Re: *Ex Parte* Notice; CC Docket No. 96-45

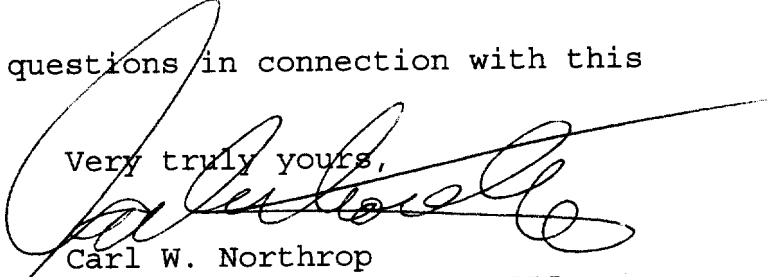
Dear Mr. Caton:

On February 26, 1997, Rob Hoggarth, Eddie Gleason and Carl Northrop, all representing the Paging and Narrowband PCS Alliance ("PNPA") of the Personal Communications Industry Association ("PCIA"), met with David Krech, Diane Law, Kim Parker and Richard Smith of the Universal Service Branch to discuss the above-referenced proceeding.

The presentation was consistent with the comments of record of PNPA and PCIA in the proceeding. A summary of the presentation, which was handed out at the end of the meeting, is attached.

Kindly refer any questions in connection with this matter to the undersigned.

Very truly yours,


Carl W. Northrop
of PAUL, HASTINGS, JANOFSKY & WALKER LLP

Enclosure

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**Presentation of the Paging and
Narrowband PCS Alliance of the
Personal Communications Industry Association**

CC Docket 96-45

February 26, 1997

Participation of PCIA in the Proceeding

- The Personal Communications Industry Association ("PCIA") filed comments and reply comments in this proceeding pertaining to several issues raised by the *Recommended Decision*, including the size of the fund and services eligible for subsidization from the fund.
- PCIA also suggested that carriers be permitted to pass through to subscribers the costs of universal service via a separate line item on subscribers' bills.
- The Paging and Narrowband PCS Alliance ("PNPA") and Broadband PCS Alliance ("BPA") of PCIA each filed supplemental comments addressing the issue of carrier contributions to the fund from their respective members' perspectives.

PNPA's Supplemental Comments

- Carriers' contributions to the fund should reflect their ability to recover from the fund, consistent with the principle of competitive neutrality and constitutional prohibitions against takings.
- Paging providers are not eligible to receive support from the fund for the one-way messaging services they provide. One-way messaging service providers do not provide all of the "core" services or "designated" elements which are required by the *Recommended Decision* to be provided to render a carrier eligible for subsidies.
- Certain competitors of one-way messaging service providers are eligible to receive support, e.g., those who bundle one-way messaging service with "core" services or "designated" elements. As a result, those competitors can increase their revenues, enhance their services, and expand their subscriber base -- giving them more subscribers among which to allocate their contributions to the fund.
- Requiring paging providers to contribute on a *pari passu* basis places paging providers at a competitive disadvantage *vis-a-vis* their competitors.

- This situation is exacerbated by the fact that messaging providers contribute to the fund, and those contributions directly benefit, i.e., subsidize their competitions.
- Imposing a disproportionate burden on messaging service providers, without regard to the relative benefits enjoyed by all carriers contributing to the fund, could be an unconstitutional taking. The benefits that messaging service providers will receive from the fund are not reasonably related to the contributions they are required to make to the fund.
- In light of the foregoing, messaging service provider contributions to the fund should be reduced. Only fifty percent (50%) of messaging service revenues should be included in calculating total gross revenues for purposes of determining requisite fund contribution.
- PNPA agrees with the Joint Board that contributions to the fund should be based upon gross telecommunications revenues net of payments to other telecommunications carriers.
- Assessment of contributions based upon gross telecommunications revenues is both administratively feasible and competitively neutral.

- Contributions to the fund to support schools, libraries and rural health care providers should be based upon both interstate and intrastate revenues.
- The majority of services supported by the fund are intrastate in nature, thus it is reasonable to assess a contribution on these revenues.
- Assessment of contributions on both intrastate and interstate revenues is easier to administer. Most carriers who will have contribution obligations are not subject to the FCC's jurisdictional separations rules, making the segregation of interstate and intrastate revenues problematic.
- Other contribution mechanisms (e.g., TRS Fund) do not provide adequate guidance to prevent gamesmanship.
- The exclusion of intrastate revenues from universal service fund contribution assessments could result in a violation of the Equal Protection Clause. Incentives to minimize revenue classified as "interstate" could place a disproportionate burden on certain carriers not participating in such gamesmanship or jurisdictional forum shopping.